

**THE COUNTY BULLETIN
and Uniform Compliance Guidelines
ISSUED BY THE STATE BOARD OF ACCOUNTS**

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October 1996

REMINDER OF ORDER OF BUSINESS

October

- 1 Last date for County Board of Tax Adjustment [except Marion County and in a county containing a second class city (November 1)] to complete its duties. (IC 6-1.1-17-9(a))

- 14 Columbus Day - Legal Holiday (IC 1-1-9-1)

- 20 Last day to report and make payment of State Income Tax withheld in September to Indiana Department of Revenue.

Last day to make pension report and payment for third quarter by counties participating in Public Employee's Retirement Fund.

- 31 Last day to file quarterly unemployment compensation report with the Indiana Employment Security Division.

Last day to report and make payment of balance of Federal Income Tax withheld in the third quarter to Internal Revenue Service.

Last day Annual Tax Sale can be held. [IC 6-1.1-24-2(a)(8)]

November

- 1 Issue tax sale certificates to County for properties offered in tax sale for two consecutive years and unsold at the 1996 Tax Sale. (IC 6-1.1-24-6)

- 2 Last day for county auditor to certify to the division of state court administration the amount, if any, the county will be providing to the judge's salary during the ensuing calendar year. (IC 33-13-12-7(b))

- 5 Election Day - Legal Holiday. (IC 1-1-9-1)

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REMINDER OF ORDER OF BUSINESS
(Continued)

November

- 10 Last day for paying second installment of taxes without penalty. Since the due date is Sunday and Veterans Day is Monday, November 11, then Last Day is Tuesday, November 12, 1996. Start preparing for settlement of second installment tax collections. (IC 6-1.1-37-10)
- 11 Veterans' Day - Legal Holiday. (IC 1-1-9-1)
- 13,14
- 15 County Auditor's Fall Conference - Indianapolis, Indiana
- 20 Last day to report and make payment of State Income Tax withheld in October to Indiana Department of Revenue.
- 28 Thanksgiving Day - Legal Holiday. (IC 1-1-9-1)

December

- 1 On or before this date, certify names and addresses of persons who have money due to them for salaries, wages or other reasons to County Treasurer, for determining if such persons owe delinquent taxes. (IC 6-1.1-22-14)
- At regular meeting of Board of Commissioners consideration may be given to appointments of certain personnel and to bids and awards for highway supplies, materials and equipment for 1997.
- 20 Last day to report and make payment of State Income Tax withheld in November to Indiana Department of Revenue.
- 25 MERRY CHRISTMAS!! Legal Holiday. (IC 1-1-9-1)
- 31 Review year-end duties.

Post and close all records completely and promptly.

The Auditor should balance with the Treasurer and verify the amount of cash in the Treasurer's office, if field examiners or a successor Treasurer are not available to verify the cash count.

Cash Change Funds issued to any county officer whose term expires must be returned to the County General Fund.

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STATE BOARD OF ACCOUNTS STATE CALLED CONFERENCE

The board members and staff of the State Board of Accounts appreciate the attendance at the state called meeting of the county treasurers on August 14, 15, and 16 in Richmond. We would like to thank the officers of the treasurers association for assisting us in planning the meeting.

NEWLY ELECTED OFFICERS TRAINING

The State Board of Accounts will provide training to the newly elected county officials on the following dates:

December 3*	-	County Auditors
December 5	-	County Treasurers
December 10	-	County Clerks of the Circuit Court
December 12	-	County Recorders

* This training may also include December 4.
We will provide further information later.

All the training will be in the Indiana Government Center in Indianapolis. Further information on the location, hotels, etc. will be forthcoming.

FEDERAL EXCISE TAXES

As a general rule, governmental units are exempt from and should not pay any federal excise tax. To obtain the exemption, a properly executed exemption certificate must be filed with the vendor from whom the purchase is made. This exemption certificate may be prepared at the time the order is placed or at the time payment is made. The exemption certificate may be a printed or mimeographed form and should be substantially in the form currently used. For information concerning the form of the exemption certificate, contact the Internal Revenue Service at 1-800-829-1040.

Claims and invoices should be carefully audited to see that no federal excise taxes are included and paid. Disbursing officers should require that invoices show separately the gross price, the amount of the excise tax, and the final price to the governmental unit.

In some instances, a county may have erroneously paid the excise taxes from which they are exempt. In such instances, the county has three years from the date the tax was paid to the Federal Government in which to file for a refund.

To obtain a refund, the county should submit to the seller an exemption certificate for each item on which excise tax was paid accompanied with documentary evidence that the exemption had not been claimed or received. Such evidence may be copies of invoices, affidavits, records, etc.

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FEDERAL EXCISE TAXES - (Continued)

The Internal Revenue Service will provide forms on which the original taxpayer may claim reimbursement for excise tax erroneously paid by a county.

Any questions concerning federal excise tax should be directed to the Internal Revenue Service.

STATE SALES TAXES

Governmental units are eligible for an exemption from the state sales tax on purchases. To obtain the exemption a Sales Tax Exemption Certificate must be obtained from the Department of Revenue. Application should be made to the Sales Tax Division of the Department of Revenue. This certificate must be presented at the time a purchase is made to avoid paying sales tax. If sales tax is paid erroneously, a refund application may be obtained from the Sales Tax Division.

Lodging for individuals in hotels and motels is not exempt from state sales tax. Therefore, reimbursements for lodging in approved travel status may include state sales tax. However, it should be kept in mind that claims for all such reimbursements must be supported by a fully itemized receipt showing date(s) of lodging, the name(s) of the person(s) occupying the room and the amount paid.

COURT REPORTERS - TRANSCRIPT PREPARATION

We have included the language that was signed into law in September, 1995 in regards to court reporters and performing transcription work. Specific questions concerning the proper reporting of this should be directed to the Internal Revenue Service. (See page 21)

FEDERAL TAX DEPOSITS - ELECTRONIC FUNDS TRANSFER

The following is an Internal Revenue service (IRS) handout pertaining to electronic funds transfer of federal tax deposits which becomes effective for counties on January 1, 1997. Please contact the IRS at 1-800-829-1040 if you have further questions.

ELECTRONIC PAYMENT SYSTEM

What is it?

The Electronic Payment system allows employers to make Federal Tax Deposits using Electronic Funds Transfer technologies.

How does it work?

It uses the Automated Clearing House (ACH) to process payments. There are two methods available: ACH Debit and ACH Credit

With an ACH Debit transaction, you authorize the Treasury's financial agent for your area to withdraw funds from your account and route them to the Treasury's general account at the Federal Reserve Bank (FRB). At the time you issue the instructions, the financial agent will provide you with an acknowledgment number. If you initiated the payment on time, had sufficient funds in your account and received an acknowledgment number, the financial agent is responsible for any processing problems with your payment.

An ACH Credit transaction is one in which your financial institution upon your instructions initiates a transaction through the ACH to the U.S. Treasury's general account at the FRB. You remain liable for the payment until your payment has been credited at the FRB.



Internal
Revenue
Service

What are the benefits of using Electronic payments?

- No trips to the bank: no standing in line to deliver FTD coupon5
- Faster, more accurate posting of deposits

and electronic arrangements with your own bank

Am I required to make payments electronically?

If your annual employment tax deposits were more than \$50,000 in calendar year 1995 you are required to begin electronic payments on January 1, 1997. Even if you are not mandated to use the new system this year, you are encouraged to take advantage of this easy and convenient payment method.

Will I be penalized if I don't use the electronic system?

Yes. Taxpayers who are required to make deposits electronically must do so beginning January 1. If you don't transmit electronically, you will be subject to a 10 percent penalty on the amount of the deposit.

How do I enroll?

During May and June 1996, First Chicago Bank, a Treasury Financial Agent, will begin mailing out enrollment packages to the 1.3 million taxpayers who are mandated to use the new system. The enrollment package will include a notice to the taxpayer explaining their payment requirements, an enrollment form and instructions.

When is the deadline?

Mandated taxpayers are encouraged to enroll as soon as possible, but no later than November 1, 1996 so they can meet the payment requirement for January 1, 1997 without being penalized for non-compliance. It takes approximately 2 to 10 weeks to complete the enrollment process.

Indiana District (rev 4/96)

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SINGLE AUDIT ACT AMENDMENTS OF 1996

Congress recently amended the Single Audit Act of 1984 with the Single Audit Act Amendments of 1996 (Amended Act). Among other things, the Amended Act has raised the dollar threshold for which a single organization-wide audit is performed from \$25,000 of federal financial assistance received to \$300,000 in federal awards disbursed in a fiscal year. In the past, single audits for state and local governments have been performed in accordance with Office of Management and Budget (OMB) Circular A-128. Under the Amended Act, audits for periods ending on or after June 30, 1997 of all non-federal entities that expend \$300,000 or more of federal awards in a fiscal year will be performed under OMB Circular A-133.

In addition to making changes in the manner in which audits of federal awards are performed, the Amended Act and Circular A-133 have also placed new requirements on the recipients of federal awards. Beginning with audits performed in accordance with the Amended Act and Circular A-133 each recipient of federal awards is required to identify all federal awards received and expended and the federal programs under which they were received. Federal program and award identification shall include, as applicable, the CFDA title and number, award number and year, name of the federal agency, and name of the pass-through agency. Among other things, these new requirements are designed to make each recipient of federal awards more aware of the federal programs received and disbursed.

In many cases the field examiners are having to spend significant amounts of audit time sorting through the accounting records and federal files to obtain information about federal awards. The recipient will now be required to provide this information upon request. Note that these requirements also apply to pass-through recipients of federal awards. If you receive federal awards passed through a state agency or other pass-through entity, the pass-through agency will be required to provide you with the appropriate CFDA titles and numbers, award number, and name of the federal agency providing the award. If you pass-through federal awards to subrecipients, you will also be required to provide this information to each subrecipient.

RIVERBOAT GAMBLING - ADMISSION TAXES

A tax is imposed on admissions to gambling excursions at a rate of three dollars (\$3) for each person admitted to the gambling excursion. This admission tax is imposed upon the licensed owner gambling excursion. (IC 4-33-12-1)

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RIVERBOAT GAMBLING - ADMISSION TAXES - (Continued)

Such taxes shall be placed in the State general fund. The Treasurer of State shall quarterly pay:

(1) One dollar (\$1) of the admissions tax collected by the licensed owner for each person embarking on a riverboat during the quarter shall be paid to:

(A) The city in which the riverboat is docked; if the city:

(i) Is described in IC 4-33-6-1(a)(1) through IC 4-33-6-1(a)(4) or in IC 4-33-6-1(b); or

(ii) Is contiguous to the Ohio River and is the largest city in the county; and

(B) The county in which the riverboat is docked, if the riverboat is not docked in a city described in clause (A).

(2) One dollar (\$1) of the admissions tax collected by the licensed owner for each person embarking on a riverboat during the quarter shall be paid to the county in which the riverboat is docked. In the case of a county described in IC 4-33-12-6(1)(B), this one dollar (\$1) is in addition to the one dollar (\$1) received under IC 4-33-12-6(1)(B).

(3) Ten cents (\$0.10) of the admissions tax collected by the licensed owner for each person embarking on a riverboat during the quarter shall be paid to the county convention and visitors bureau or promotion fund for the county in which the riverboat is docked.

Money paid to a unit of local government:

(1) Must be paid to the fiscal officer of the unit and deposited in the unit's general fund;

(2) May not be used to reduce the unit's maximum or actual levy under IC 6-1.1-18.5; and

(3) May be used for any legal or corporate purpose of the unit, including the pledge of money to bonds, leases, or other obligations under IC 5-1-14-4.

Money paid by the Treasurer of State to a county convention and visitors bureau or promotion fund shall be:

(1) Deposited in:

(A) The county convention and visitor promotion fund; or

(B) The county's general fund if the county does not have a convention and visitor promotion fund;
and

(2) Used only for the tourism, promotion, advertising, and economic development activities of the county and community. (IC 4-33-12-6)

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RIVERBOAT GAMBLING - WAGERING TAXES

After funds are appropriated under IC 4-33-13-4, each month the Treasurer of State shall distribute the tax revenue deposited in the state gaming account to the following:

- (1) Twenty-five percent (25%) of the tax revenue remitted by each licensed owner shall be paid:
 - (A) To the city that is designated as the home dock of the riverboat from which the tax revenue was collected, in the case of a city described in IC 4-33-12-6(b)(1)(A);
 - (B) In equal shares to the counties described in IC 4-33-1-1(3), in the case of a riverboat whose home dock is on Patoka Lake; or
 - (C) To the county that is designated as the home dock of the riverboat from which the tax revenue was collected, in the case of a riverboat whose home dock is not in a city described in clause (A) or a county described in clause (B); and
- (2) Seventy-five percent (75%) of the tax revenue remitted by each licensed owner shall be paid to the build Indiana fund lottery and gaming surplus account. (IC 4-33-13-5)

Money paid to a unit of local government:

- (1) Must be paid to the fiscal officer of the unit and deposited in the unit's general fund;
- (2) May not be used to reduce the unit's maximum or actual levy under IC 6-1.1-18.5; and
- (3) May be used for any legal or corporate purpose of the unit, including the pledge of money to bonds, leases, or other obligations under IC 5-1-14-4.

IC 4-33-13 does not prohibit the city or county designated as the home dock of the riverboat from entering into agreements with other units of local government in Indiana or in other states to share the city's or county's part of the tax revenue received. (IC 4-33-13-6)

DRAINAGE CONSTRUCTION AND MAINTENANCE - USE OF OWN WORK FORCE

IC 36-9-27-77(e) allows the Drainage Board to perform maintenance, construction, or reconstruction by its own work force without awarding a contract. However, this would be subject to IC 36-1-12-5 which states the public work project must be less than \$25,000. IC 36-1-12-5(c) states that the Board may purchase or lease materials in the manner provided in IC 36-1-9 and perform the public work by means of its own work force without awarding a public contract.

In summary, the Drainage Board could perform its own maintenance project with the use of its own work force without awarding a contract if the total project costs are less than \$25,000 (IC 36-1-12-5).

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PLATS

Except as provided in section 9 of this chapter, the auditor, or, if authorized by county ordinance, the surveyor of each county shall maintain a plat of each civil township of the county the auditor or surveyor serves. The plats shall be divided in such a manner that they clearly exhibit the ownership and assessed value of each parcel of real property. The plats must be in the form and contain the information prescribed by the state board of tax commissioners. The plats shall be kept current. (IC 6-1.1-5-1)

Indiana Code Section 6-1.1-35-13 authorizes the state board of tax commissioners to prepare a plat if an official fails to deliver a plat to the appropriate officer or board. They may appoint a special representative to prepare the plat. The board shall certify the expenses incurred to the township or county which is served by the official who failed to perform his duty and the township or county may collect amounts which it pays under the section from the official who failed to perform his duty.

TAX SALE SURPLUS

IC 6-1.1-24-7 states in part:

(b) The:

(1) owner of record who is divested of the owner's property by the issuance of a tax deed to the tax sale purchaser;

(2) tax sale purchaser or purchaser's assignee, upon redemption of the tract or item of real property; or

(3) person with a substantial property interest of public record, as defined in section 1.9 of this chapter and as evidence by the issuance of a tax deed to a tax sale purchaser, in a county:

(A) having a population of more than two hundred thousand (200,000) but less than four hundred thousand (400,000);

(B) having a consolidated city; or

(C) in which the county auditor and the county treasurer have an agreement under IC 6-1.1-25-4.7;

may file a verified claim for money which is deposited in the tax sale surplus fund. If the claim is approved by the county auditor and the county treasurer, the county auditor shall issue a warrant to a person described in subdivisions (1) through (3) for the amount due.

(c) An amount deposited in the tax sale surplus fund shall be transferred by the county auditor to the county general fund and may not be disbursed under subsection (b) if it is not claimed within the three (3) year period after the date of its receipt.

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PAYMENT FOR PUBLICATION OF PUBLIC NOTICES - PENALTY FOR VIOLATION

Whenever publication of notice, report, or statement of any kind is required and a county is liable for the cost of that publication, the county commissioners may not make or pay for publication in more than one newspaper, unless publication in two (2) newspapers is required. A person who violates this section commits a Class C infraction. (IC 36-2-2-25)

INVALID TAX SALE - REFUND OF PURCHASE MONEY PLUS 6% INTEREST

IC 6-1.1-25-10 requires the county auditor to refund the purchase money plus six (6) percent interest from the county treasury to the purchaser of real property if, before the execution of a deed to real property sold under IC 6-1.1-24, it is found that the sale was invalid. The six (6) percent interest should be paid on a per annum basis and not as a straight percentage of the purchase money paid.

COUNTY EXTRADITION FUND

There is established in each county a county extradition fund. The county extradition fund is established for the purpose of providing funding to offset the costs of extraditing criminal defendants. Money in the fund may not be used for any other purpose. The county auditor shall administer the fund. Money in the fund at the end of a particular year does not revert to any other fund, but remains in the county extradition fund. The fund consists of the portion of late surrender fees deposited in the fund under IC 27-10-2-12(i). (IC 35-33-14-1 to IC 35-33-14-5)

TRANSIENT MERCHANTS LICENSE

All qualifying transient merchants shall file an application for a license for that purpose with the county auditor and shall pay to the county treasurer a license fee of one hundred dollars (\$100) for each six (6) month period in which the applicant proposes to transact business. The applicant shall thereupon file the county treasurer's receipt for such payment with the county auditor of the county with whom the application is filed. (IC 25-37-1-4 and IC 25-37-1-6)

We recommend the Combination Quietus, Application to Pay, Treasurer's Receipt and Auditor's Copy (Form 20-21 Rev. 1987) be used in processing this type of transaction. All license fees shall be quietused to the County General Fund. We further recommend that the licenses issued to transient merchants be prenumbered by your printing supplier and be stored in a safe place to prevent unauthorized use of such licenses. (IC 25-37-1-12)

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TRANSIENT MERCHANTS LICENSE - (Continued)

At the time of filing the application with the county auditor, the applicant shall also file and deposit a bond with sureties to be approved by the county auditor for the penal sum of seven hundred fifty dollars (\$750) or three (3) times the value of the goods, wares, and merchandise to be offered for sale or sold as shown by the inventory filed, whichever sum is greater, running to the State.

The bond shall be forfeited and used for the benefit of:

1. any purchaser of goods, wares, or merchandise sold by the applicant, if the purchaser is awarded a judgment as a result of a cause of action against the applicant that was commenced within one (1) year of and that arose out of the sale;
2. the operating budget of the county's prosecuting attorney, if the applicant is found by a court to have violated IC 35-37-1-9, although the amount forfeited under this subdivision may not exceed one-third (1/3) of the bond;
3. the state, any of its departments or subdivisions, or any unit of local government, if the applicant fails to pay all taxes due from the applicant to that governmental entity; or
4. a court in payment of partial payment of any fines that may be assessed by the court against the applicant, its agents, or employees for violation of this chapter.

However, the aggregate liability of the surety for all taxes, fines, disbursements, and causes of action may not exceed the amount of such bond. There shall be no limitation of liability against the transient merchant or the applicant for the license.

In such bond, the applicant and surety shall appoint the auditor of the county in which the bond is filed, the agent of the applicant, and the surety for the service of process. In the event of such service of process, the agent on whom such service is made shall, within five (5) days after the service, mail by ordinary mail a true copy of the process served upon him to each party for whom he has been served, addressed to the last known address of such party. Failure to mail the copy shall not, however, affect the court's jurisdiction.

The state or any department or subdivision, municipal or otherwise, thereof or any person having a cause of action arising from or out of any sale or sales of goods, wares, or merchandise or against the applicant may join the applicant and the surety on such bond in the same action or may sue either such applicant or the surety alone. (IC 25-37-1-5)

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TRANSIENT MERCHANTS LICENSE - (Continued)

The following persons, organizations or corporation are exempt from the requirements to obtain a transient merchants license:

1. any person, individual, copartner, limited liability company, or corporation which grows the goods, wares, or merchandise that is sold or is offered for sale;
2. a person who makes crafts or items by hand and sells them or offers them for sale;
3. an auctioneer who is licensed under IC 25-6.1;
4. a resident of the county in which the sale takes place who conducts a sale of tangible personal property for no more than four (4) days per calendar year;
5. an organization that is exempt from the Indiana gross retail tax under IC 6-2.5-5-26;
6. a person who:
 - a. sells merchandise;
 - b. offers to sell merchandise; and
 - c. provides proof that the sale is being conducted as part of an activity sponsored by an organization described in subdivision (5);
7. a person who:
 - a. organizes;
 - b. sells merchandise at;
 - c. offers to sell merchandise at; or exhibits at; a trade show or convention;
8. except as provided in section 15, a person who holds a registered retail merchant's certificate under IC 6-2.5-8. (IC 25-37-1-2)

A transient merchant who:

1. transacts business without having first obtained license under this chapter; or
2. knowingly advertises, offers for sale, or sells any goods, wares, or merchandise contrary to this chapter; commits a Class B infraction for each day a violation occurs. (IC 25-37-1-9)

Notwithstanding section 5 of this chapter (requirement to file bond), a county legislative body (as defined in IC 36-1-2-9) may annually:

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TRANSIENT MERCHANTS LICENSE - (Continued)

(1) set the amount of the bond required under section 5 of this chapter in any amount that is not greater than the amount required in section 5 of this chapter; or

(2) waive the bond required under section 5 of this chapter.

(b) A county legislative body that reduces or waives the bond under subsection (a) must inform the auditor of the county of the following:

(1) Whether a bond is required to be filed with an application with the auditor for a transient merchant license.

(2) The amount of the bond if a bond is required.

(c) An applicant filing for a transient merchant license must do the following:

(1) If filing for a transient merchant license with a county auditor who has been informed of a reduced bond under subsection

(b), the applicant must file:

(A) an application; and

(B) the bond; with the county auditor.

(2) If filing for a transient merchant license with a county auditor who has been informed that a bond has been waived under subsection (b), the applicant must file only on application.

(d) A bond required under subsection (a)(1), although not in the amount required under section 5 of this chapter, will for all other purposes be treated like a bond issued under section 5 of this chapter. (IC 25-37-1-5.5)

Notwithstanding section 6 of this chapter (requirement to pay license fee), a county legislative body (as defined in IC 36-1-2-9) may annually:

(1) set the county license fee required under section 6 of this chapter in any amount that is not greater than the amount required in section 6 of this chapter; or

(2) waive the county license fee required under section 6 of this chapter.

(b) A county legislative body that reduces or waives the county license fee under subsection (a) must inform:

(1) the treasurer of the county; and

(2) The auditor of the county; whether a license fee is required to be filed with an application with the auditor for a transient merchant license and the amount of the license fee if a license fee is required.

(c) A treasurer who is informed of a fee changed under subsection

(b) shall:

(1) require each applicant to submit the lesser fee set by the county legislative body; and

(2) issue a receipt to the applicant.

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TRANSIENT MERCHANTS LICENSE - (Continued)

- (d) An applicant filing for a transient merchant license must do the following:
 - (1) If filing for a transient merchant license with the county auditor who has been informed of a reduced license fee under subsection (b), the applicant must file:
 - (A) an application; and
 - (B) a receipt from the county treasurer.
 - (2) If filing for a transient merchant license with a county auditor who has been informed that a license fee has been waived under subsection (b), the applicant must file only an application.

COUNTY CORRECTIONS FUND

The county legislative body (Board of County Commissioners) may adopt an ordinance to elect to receive deposits made by the State and to establish a county corrections fund. The county fiscal body shall administer the county corrections fund. (IC 11-12-6-6)

A county corrections fund may be used only for funding the operation of the county's jail, jail programs, or other local correctional facilities. Any money remaining in a county corrections fund at the end of the year does not revert to any other fund, but remains in the county corrections fund. (IC 11-12-6-7)

LEASE-PURCHASE AGREEMENTS

In purchasing a truck, accounting machine or any other equipment from budgeted funds, the County Commissioners have the right to enter into a rental with option to purchase agreement if the rental charge is fair and reasonable.

Before such an agreement can be legally entered into, there must be a sufficient appropriation balance available for payment of the current year's rental charge. The agreement should not obligate the county for payment of rental beyond the current year's appropriation. Provision may be made in the agreement for renewal for succeeding years by rental payments subject to appropriations being available therefore.

If the total annual rental payments of the equipment (without consideration of any trade-in) exceeds the county's threshold the purchasing authority must comply with the "Public Purchases Law," IC 36-1-9, by advertising for bids and by awarding a contract to the most responsible and responsive bidder. Only by awarding a contract pursuant to IC 36-1-9 would the county have authority to purchase the equipment at a later date. A lease-purchase agreement will generally contain an option to purchase at the end of the lease term for nominal consideration or no additional consideration.

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LEASE-PURCHASE AGREEMENTS - (Continued)

The specifications for the equipment must be recognized standard specification to allow competitive bidding and should provide for the bidder to quote the total purchase cost, the rental charge to be made, and the percentage of the rental charge that will be credited toward the purchase cost should the county exercise the option to purchase. Any interest or carrying charges must be made a part of the original bid price without specific reference made thereto.

If the above requirements are complied with, the purchasing authority can legally exercise its option to purchase at any time a sufficient appropriation for equipment is available.

FIREARM DEALER'S LICENSE - ISSUANCE - FEE - DISPOSITION OF FEE

IC 35-47-2-15 provides for the issuance of Firearm Dealer's License by the Superintendent of the Indiana State Police department upon application of a person, desiring a retailing handgun dealer's license, to the sheriff of the county in which he resides. The fee for the license shall be twenty dollars (\$20) which shall be deposited with the officer to whom the application is made, who shall in turn forward to the superintendent. In the event that the application is disapproved, the fee shall be returned to the applicant along with the complete reasons, in writing.

ANNUAL STATEMENT OF COUNTY'S RECEIPTS AND EXPENDITURES - PUBLICATION

IC 36-2-2-19 provides that at the second regular meeting each year the executive (Board of County Commissioners) shall make an accurate statement of the county's receipts and expenditures during the preceding calendar year. The statement must include the name of and compensation paid to each county officer, deputy, and employee. The executive shall post this statement at the courthouse door and two (2) other places in the county and shall publish it in the manner prescribed by IC 5-3-1.

FORESTRY RESERVE DISTRIBUTIONS

The law governing distribution of state forestry earnings can be found in IC 14-23-4-5. This law specifically provides that 15% of such earnings be deposited in the County General Fund of the county in which the state forest is located.

In addition, counties in which national forests are located receive a distribution from the Treasurer of the United States through the State of Indiana. There are only a few counties receiving earnings from the national forest reserves and it has been the policy to receipt all of such funds to the County Highway Fund.

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PER DIEM PAYMENTS TO MEMBERS OF AREA PLAN COMMISSION AND BOARDS OF ZONING APPEALS

Notwithstanding IC 36-2-7-2, a member of a county executive, a member of a county fiscal body, a county surveyor, or an appointee of a county surveyor who is also a member of a plan commission is entitled to receive the following:

- (1) A sum for mileage for each mile necessarily traveled while performing the duties of a plan commission member in an amount that is equal to the amount paid to state employees for mileage.
- (2) A sum for compensation for services as a member of the plan commission in an amount that the county fiscal body may determine for attendance at meetings of the plan commission.

Since the laws governing Boards of Zoning Appeals fails to address the subject of compensation of board members, we would not be opposed to a county adopting a Home Rule ordinance in accordance with IC 36-1-3 to allow such compensation. As long as those members who are elected officials are excluded, we would not take exception to paying per diem to other members of this board.

COUNTY LAW ENFORCEMENT CONTINUING EDUCATION FUND

In each action in which a defendant is found to have:

- (1) committed a crime;
- (2) violated a statute defining an infraction; or
- (3) violated an ordinance of a municipal corporation; the clerk shall collect a law enforcement continuing education program fee of three dollars (\$3). (IC 33-19-6-7)

A county user fee fund is established in each county for the purpose of financing various program services. The county fund shall be administered by the county auditor.

The county fund consists of the following fees collected by a clerk under this article and by the probation department for the juvenile court under IC 31-6-4-12(h):

- (1) The pretrial diversion program fee.
- (2) The informal adjustment program fee.
- (3) The marijuana eradication program fee.
- (4) The alcohol and drug services program fee.
- (5) The law enforcement continuing education program fee.
- (6) The deferral program fee.
- (7) The alcohol abuse deterrent program fee or a medical fee, or both. (IC 33-19-8-5)

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COUNTY LAW ENFORCEMENT CONTINUING EDUCATION FUND - (Continued)

Upon receipt of monthly claims submitted on oath to the fiscal body by a program, the county fiscal body shall appropriate from the county fund to that program or fund the amount collected for the program under IC 33-19-6. (IC 33-19-8-6)

There is established in each county a county law enforcement continuing education program. The program is funded by amounts appropriated under IC 33-19-8-6.

The county law enforcement agency receiving amounts based upon claims for law enforcement continuing education funds under IC 33-19-8-6 or IC 33-19-8-4 shall deposit each fee collected into the county law enforcement continuing education fund.

Distribution of money in the county law enforcement continuing education fund shall be made to a county law enforcement agency without the necessity of first obtaining an appropriation from the county fiscal body.

Money in excess of one hundred dollars (\$100) that is unencumbered and remains in a county law enforcement continuing education fund for at least one (1) entire calendar year from the date of its deposit shall, at the end of a county's fiscal year, be deposited by the county auditor in the law enforcement training fund established under IC 5-2-1-13(b).

To make a claim under IC 33-1-8-6 a law enforcement agency shall submit to the fiscal body a verified statement of cause numbers for fees collected that are attributable to the law enforcement efforts of that agency.

A law enforcement agency shall submit a claim for fees in the same county fiscal year in which the fees are collected under IC 33-19-5.

A county law enforcement agency program shall provide to each law enforcement officer employed by the county and may provide to each law enforcement officer employed by a city or town law enforcement agency within the county continuing education concerning the following:

- (1) Duties of a law enforcement officer in enforcing restraining orders, protective orders, temporary injunctions, and permanent injunctions involving abuse.
- (2) Guidelines for making felony and misdemeanor arrests in cases involving abuse.
- (3) Techniques for handling incidents of abuse that:
 - (A) minimize the likelihood of injury to the law enforcement officer; and
 - (B) promote the safety of a victim.
- (4) Information about the nature and extent of abuse.
- (5) Information about the legal rights of and remedies available to victims of abuse.

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COUNTY LAW ENFORCEMENT CONTINUING EDUCATION FUND - (Continued)

- (6) How to document and collect evidence in an abuse case.
- (7) The legal consequences of abuse.
- (8) The impact on children of law enforcement intervention in abuse cases.
- (9) Services and facilities available to victims of abuse and abusers.
- (10) Verification of restraining orders, protective orders, temporary injunctions, and permanent injunctions.
- (11) Policies concerning arrest or release of suspects in abuse cases.
- (12) Emergency assistance to victims of abuse and criminal justice options for victims of abuse.
- (13) Landlord-tenant concerns in abuse cases.
- (14) The taking of an abused child into protective custody.
- (15) Assessment of a situation in which a child may be seriously endangered if the child is left in the child's home.
- (16) Assessment of a situation involving an endangered adult (as defined in IC 12-10-3-2).
- (17) Response to a sudden, unexpected infant death.

A county law enforcement agency may enter into an agreement with other law enforcement agencies to provide the continuing education required. (IC 5-2-8-1)

PROSECUTING ATTORNEYS - DISCIPLINARY COMMISSION FEES

Full-time county prosecutors and deputy prosecutors disciplinary commission fees can be paid from the county general fund, if an appropriation exists, or from the prosecutor's Title IVD account.

Other professional dues would still fall under the guidelines as stated in the April 1996 County Bulletin.

QUESTIONS AND ANSWERS FROM CLERKS' ANNUAL CONFERENCE

Question #1: We have never had to pay a bad check fee to our bank. We are told they will now have to charge it to us. Do we have to renew the stop payment after six months? We will be charged the \$20 again, each time renewed. What fund do we take this fee out of?

Answer #1: Federal banking regulations prohibit a bank from accepting a check that is over sixty days old. Therefore, renewing a stop payment after this time doesn't appear necessary. Any service charge by a bank should be appropriated and paid from the general fund.

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QUESTIONS AND ANSWERS FROM CLERKS' ANNUAL CONFERENCE - (Continued)

- Question #2: State of Indiana and the county drug task force files civil cases, for the distribution of funds collected from drug dealers. These funds are distributed to different agencies, but nothing is allowed for the court costs. Should they allow clerk to collect \$100 for filing fee?
- Answer #2: IC 33-19-3-1 states that fees in civil actions may not be collected from the state or a political subdivision in an action brought by or on behalf of the state or any political subdivision. This does not prevent the collecting of fees from a defendant when the state or political subdivision is successful in its action.

QUESTIONS AND ANSWERS FROM COUNTY TREASURERS' ANNUAL CONFERENCE

- Question #1: In the mailing of the tax statements, the Indiana Code states that statements are to be mailed to the last known address. Does this mean the last known address as of the March 1st of the prior year's assessment date or the last known address currently on file in the county auditor's office (from transfers of real estate made after March 1st)?
- Answer #1: IC 6-1.1-22-8 states that the county treasurer shall either mail to the last known address of each person liable for any property taxes or special assessments, as shown on the tax duplicate or special assessment records, or to the last known address of the most recent owner shown in the transfer book.
- Question #2: How many counties do splits for the taxpayers? Our assessor says lots of counties refuse to do splits.
- Answer #2: IC 6-1.1-5-5 states that if a division, partition or change of ownership of real property is made by conveyance, sale, devise, or descent, the county auditor shall transfer the real property on the last assessment list. In addition, the auditor shall apportion the assessed value of the real property and all delinquent taxes on the real property among the several owners.
- Question #3: Can you still handle minerals as real estate and after two sales certify to county if not sold at sale?
- Answer #3: IC 6-1.1-25-4 states the county may receive a deed or if the board of county commissioners determines that the property contains hazardous waste or other environmental hazards as to any interest in an oil or gas lease or separate mineral right, the county treasurer shall certify to the clerk following the procedures in IC 6-1.1-23-9. The certified amount is subject to collection as delinquent personal property tax.

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QUESTIONS AND ANSWERS FROM COUNTY TREASURERS' ANNUAL CONFERENCE - (Continued)

Question #4: Board of Review. Is it necessary for you to sit on board if they have enough for the vote?

Answer #4: IC 6-1.1-28-1 states that a majority of the county board of review constitutes a quorum for the transaction of business. Any question properly before the board may be decided by the agreement of a majority of the whole board.

NOTIFICATION OF AMENDMENT TO THE FAIR LABOR STANDARDS ACT

On July 7, 1995, the United States Congress approved HR 1225 to amend the Fair Labor Standards Act of 1938 (29 USC 207(o)). The Act, cited as **Court Reporter Fair Labor Amendments of 1995**, became law when the President signed it September 6, 1995.

It reads as follows:

Section 7(o) of the Fair Labor Standards Act of 1938 (29 USC 207(o)) is amended—

(1) by redesignating paragraph (6) as paragraph (7); and

(2) by inserting after paragraph (5) the following new paragraph:

(6) The hours an employee of a public agency performs court reporting transcript preparation duties shall not be considered as hours worked for the purposes of subsection (a) if—

(A) such employee is paid at a per-page rate which is not less than—

(i) the maximum rate established by State law or local ordinance for the jurisdiction of such public agency,

(ii) the maximum rate otherwise established by a judicial or administrative officer and in effect on July 1, 1995, or

(iii) the rate freely negotiated between the employee and the party requesting the transcript, other than the judge who presided over the proceedings being transcribed, and

(B) the hours spent performing such duties are outside of the hours such employee performs other work (including hours for which the agency requires the employee's attendance) pursuant to the employment relationship with such public agency.

For purposes of this section, the amount paid such employee in accordance with subparagraph (A) for the performance of court reporting transcript preparation duties, shall not be considered in the calculation of the regular rate at which such employee is employed.

The amendments made by section 2 shall apply after the date of the enactment of this Act and with respect to actions brought in a court after the date of the enactment of this Act.